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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,394	12/28/2006	**Christian Prentner**	F5152-00001	5935

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IP DEPARTMENT
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EXAMINER	
ING, MATTHEW W	

ART UNIT	PAPER NUMBER
3637	

MAIL DATE	DELIVERY MODE
09/24/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,394	PRENTNER ET AL.	
	Examiner	Art Unit	
	MATTHEW W. ING	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 4-11, & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) in view of Domenig (5,169,237). Sekerich teach(es) the structure substantially as claimed, including a control roller (18) having a soft body (50) which engages both carcass (16) & pull-out (12) rails. The only difference between Sekerich and the invention as claimed is that Sekerich fail(s) to teach a control roller having hard & soft bodies which each engage said rails. Domenig, however, teaches a roller having hard & soft bodies which each engage a rail (col. 3, lines 6-9). It would have been obvious to one of ordinary skill in the art to substitute a roller, as taught by Domenig, for that of Sekerich, in order to increase the service life of said roller (col. 2, lines 5-30 of Domenig), thereby providing the structure substantially as claimed.

3. Regarding claim 1, Sekerich teaches a carcass rail (16) for attachment to a carcass, a pull-out rail (12) for attachment to the drawer, a central rail (14) arranged between the carcass rail and the pull-out rail, wherein the central rail is displaceable relative to the carcass rail and relative to the pull-out rail, during pulling-out and pushing-in operations of the drawer; and control roller (18) mounted rotatably about an axis on the central rail and in engagement with the carcass rail and with the pull-out rail; wherein the control roller mounted rotatably on the central rail serves exclusively for synchronizing a position and movement of the central rail with the pulling-out and pushing-in operations of the drawer. See col. 1 lines 6-8 & 38-39 (describing the roller of

Sekerich as a "progressive roller" for "caus[ing] progressive movement of the rails"). Since the carcass rail (16) and pull-out rail (12) are mounted to cabinet and drawer, respectively, it follows that the load imposed by said drawer is carried by said carcass rail via said central & pull-out rails; and that, therefore, said control roller does not serve as a load-bearing device. This is further suggested by the fact that the control roller of Sekerich is easily replaceable without disassembly of said rails or removal of said drawer (col. 5, lines 10-23). Additionally, Domenig teaches a control roller (1) comprising a bearing part including a hard body (7) and a soft body (8), wherein the soft body at least in part projects in a radial direction relative to the hard body (Fig. 1), and the soft body extends over an axial extent less than an axial extent over which the hard body engages with the carcass rail and with the pull-out rail (Fig. 1).

4. Regarding claim 4, Domenig teaches a soft body (8) arranged in a region of an axial end side of the control roller (1).

5. Regarding claim 5, Domenig teaches a control roller (1) comprising a two-component construction. See Fig. 1.

6. Regarding claim 6, Domenig teaches hard (7) & soft (8) bodies comprising two separate components which are assembled before mounting of the control roller.

7. Regarding claims 7-8, Domenig teaches a soft body (8) arranged & fixed between a shoulder of the hard body (portion of 7 to the left of 19 in Fig. 1) and a bearing plate or washer (portion of 7 to the right of 19 in Fig. 1) of the control roller.

8. Regarding claims 9-10, although Sekerich fails to clearly teach a spindle having a non-circular cross-section whose major axis extends in a pull-out direction, whereas applicant has not traversed the examiner's taking of official notice, per MPEP 2144.03(C), the practice of changing

the shape of a spindle is therefore viewed as being admitted prior art. With regard to the orientation of said spindle, it is noted that mere rearrangement of the essential working parts of a device has been held to involve only routine skill in the art. As such, it therefore would have been an obvious design consideration to one of ordinary skill in the art to modify the spindle of Sekerich, by giving said spindle a non-circular cross-section whose larger diameter was oriented in a pull-out direction of the pull-out guide, depending on the desired needs of the person constructing the drawer slide (e.g., intended use of the drawer slide, aesthetic considerations, compactness, ease of manufacture, etc.), thereby providing the structure substantially as claimed.

9. Regarding claims 11 & 13, Sekerich teaches a control roller (18) mounted on a spindle (58) and the spindle is mounted on a holding device (56) snap-connected (via 64) to the central rail.

10. Claims 12 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) & Domenig (5,169,237) as applied to claims 1 & 10 are above, in view of Crescenzi (4,120,071). Sekerich & Domenig teach(es) the structure substantially as claimed, including a control roller (18) mounted on a spindle (58). The only difference between Sekerich & Domenig and the invention as claimed is that Sekerich & Domenig fail(s) to teach a control roller snapped onto a bearing spindle. Crescenzi, however, teaches mounting a roller (13) to a spindle (24) via a snap-connection therebetween. It would have been obvious to one of ordinary skill in the art to substitute a connecting means, as taught by Crescenzi, for that of Sekerich as modified, in order to prevent extraneous movement by said roller while attached to said spindle; thereby providing the structure substantially as claimed.

Response to Arguments

11. Applicant's arguments filed 8/23/10 have been fully considered but they are not persuasive.

12. In response to applicant's apparent argument that no motivation exists to modify the prior art, it is noted that such motivations can be found in pars. 2, 8, & 10 above; and that, in any event, *KSR v. Teleflex* forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

13. In response to applicant's arguments regarding Sharp, Grebonval, & McIntosh, it is noted that these references are cited solely to illustrate that the practice of changing the shape of a spindle is well-known in the art. Since said references relate to spindles for rotatable objects, they are therefore viewed as being both within applicant's field of endeavor & reasonably pertinent to the problem with which applicant was concerned. Moreover, although (as noted above) it appears that applicant, in his Remarks, does not adequately traverse the taking of official notice, even assuming, *arguendo*, that such a traversal had occurred, it would not be found persuasive in view of the evidence provided by Sharp, Grebonval, & McIntosh regarding the practice of altering spindle cross-sections.

14. As for applicant's argument regarding the orientation of the spindle, first, neither claims 9-10 nor applicant's Remarks cite any specific utility associated with said orientation; hence, orienting the non-circular spindle in Sekerich as modified such that its long axis paralleled the pull-out direction is viewed as being an obvious matter of design choice to one of ordinary skill in the art. Second, even though applicant does assert, in pp. 3-4 of the specification, that arranging a non-circular spindle in the claimed orientation "results in a permanently quiet

bearing", he fails to explain why this is so. Even assuming, *arguendo*, that such an outcome is indeed the result of the aforementioned spindle orientation, it nevertheless would have been obvious to one of ordinary skill in the art to try & obtain such a result, since the problem of noise during movement has long been known in the art of drawer slides (see, e.g., col. 3, lines 4-5 of Domenig (5,169,237) (citing as an advantage that a drawer roller "operates practically without noise")) since mere rearranging of the essential working parts of a device has been held to involve only routine skill, and since person of ordinary skill in the art would have been able to choose among the limited number of available orientations for said spindle, with a reasonable expectation that a spindle having the claimed orientation would have been obtained.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darnell M Jayne/
Supervisory Patent Examiner, Art Unit 3637

MWI
9/21/10